

**IN THE PASCUA YAQUI TRIBAL COURT
COUNTY OF PIMA, STATE OF ARIZONA**

PASCUA YAQUI TRIBE,)	NO. CR-08-119
)	
Plaintiff,)	
)	
vs.)	
)	
BEATRICE MIRANDA,)	
)	
Defendant.)	April 21, 2008
_____)	Tucson, Arizona

**BEFORE: THE HONORABLE CORNELIA CRUZ, JUDGE OF
THE PASCUA YAQUI TRIBE**

**APPEARANCES: G. ALLEN OSBURN, ESQ.
appearing for Plaintiff**

**BEATRICE MIRANDA,
appearing Pro Per**

RE: TRIAL

**Christine McGarvey
Legal Transcription Services Plus, Inc.**

INDEX

WITNESS

Officer Jose Montano, Jr. - Witness

Bridget Valenzuela, Witness

[REDACTED] Witness

THE COURT: The Pascua Yaqui Tribal Court is now in session in the matter of the Pascua Yaqui Tribe versus Beatrice Miranda, Docket number CR-08-119. The date is April 21st, 2008. Allen Osburn is here for the Tribe and the Defendant is without legal counsel and in custody. This is the time for trial hearing on the charges of aggravated assault, aggravated assault and endangerment, endangerment, threatening and intimidating, threatening and intimidating, disorderly conduct and disorderly conduction. And Ms. Miranda, I will advise you of your rights. You have the right to remain silent. Anything you say may be used against you. You have the right to you own counsel at your own expense. You have the right to a hearing. You have the right to cross examine witnesses and evidence presented by the Tribe, and the right to present witnesses and evidence in your behalf. You have the right to know the charges against you, and you have the right to appeal to the Pascua Yaqui Court of Appeals. Do you understand your rights?

1 MS. MIRANDA: (No audible response.)
2 THE COURT: This is the trial hearing and this
3 court will conduct the trial in the following matter. The Tribe,
4 uhm, Mr. Osburn will be allowed to interview the witnesses and any
5 (inaudible) he may have. Anything that the witnesses testify to
6 or (inaudible) to the evidence, you have objections to the
7 evidence then it will be to (inaudible), you cannot talk to them
8 (inaudible). Once at a time will be (inaudible); however, I will
9 advise you now that you can, that you can (inaudible). And we
10 will have opening from the, uh, Tribe and then opening from, from
11 you. Mr. Osburn.
12
13 MR. OSBURN: Your Honor, the Tribe will wait.
14
15 THE COURT: Okay. Do you have an opening
16 statement, Ms. Miranda? No? And you can call your first
17 witness.
18
19 MR. OSBURN: Jose Montano.
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21 THE COURT: Officer Montano, please step
22 forward and raise your right hand. Do you solemnly swear to tell
23 the truth and nothing but the truth at this time?
24
25 OFFICER MONTANO: Yes.
26
27 THE COURT: Go ahead and be seated.
28
29 MR. OSBURN: Good morning.

1 OFFICER MONTANO: Good morning.
2 MR. OSBURN: Please, uh, tell us your name?
3 OFFICER MONTANO: Uh, Jose G. Montano, Jr.
4 MR. OSBURN: And, uh, where do you work?
5 OFFICER MONTANO: Uh, Pascua Police Department.
6 MR. OSBURN: How long have you been so employed?
7 OFFICER MONTANO: Uh, three years.
8 MR. OSBURN: And, uh, have you received any
9 training in regards to your position?
10 OFFICER MONTANO: Yes.
11 MR. OSBURN: Please could you tell us?
12 OFFICER MONTANO: Uh, police academy, twenty weeks,
13 uh, various training post-academy.
14 MR. OSBURN: And, uhm, are you familiar, you've
15 received training about writing reports?
16 OFFICER MONTANO: Yes.
17 MR. OSBURN: And, uh, have you employed that,
18 uh, training when you're doing your work?
19 OFFICER MONTANO: Yes.
20 MR. OSBURN: Officer, do you, uh, remember an
21 incident taking place on January 25th, 2008, around ten (inaudible
22 - clearing throat)?
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1 OFFICER MONTANO: Uh, yes. Uh --

2 MR. OSBURN: Could tell us how you became aware
3 of that incident?

4 OFFICER MONTANO: I was dispatched to, uh, the area
5 of Koni Street, uh, reference to a female subject, uh, chasing a
6 female, a second, uh, female subject with a knife. Uh, they
7 advised that the female subject in question was wearing, uh, dark
8 clothing with, uh, long sleeves. Uh, upon arrival, uh, I made
9 contact with a couple females at the, uh, cul-de-sac and they
10 advised me that the female subject was now running towards the
11 Toroko Vampo. Uh, I then went to Toroko Vampo, and I saw a female
12 subject matching the description at Toroko Vampo and Kau Bo-Oh.
13 Uh, I made contact with the female on the property of 7600 Kau Bo-
14 Oh.
15 Oh.

16 MR. OSBURN: So this person was consistent with
17 the description that you were being provided?

18 OFFICER MONTANO: Yes. The female that I made
19 contact with had a, a sweater on with long sleeves.

20 MR. OSBURN: And, uh, what happened upon
21 contact?

22 OFFICER MONTANO: Uh, upon contact I asked the
23 subject to stop and turn around so I could place my handcuffs on
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1 her for, uh, sa--, safety purposes. At this point, uh, the
2 subject used her weight to go down, uh, she resisted.
3 MR. OSBURN: What does that mean she used her
4 weight to go down?
5 OFFICER MONTANO: Uh, she used her weight to go down
6 to the ground. She wouldn't let us, uh, take control of her, her
7 person, uh, so she just went straight to the ground just like, uh.
8 MR. OSBURN: And, uh, did you see that, did you
9 see that person here today?
10 OFFICER MONTANO: Yes.
11 MR. OSBURN: Please tell us where she's seated
12 today?
13 OFFICER MONTANO: She's seated to my left wearing a,
14 a gray, uh, outfit, long hair.
15 MR. OSBURN: Let there be, uh, (inaudible.) Uh,
16 and did this take place, uh, on Pascua Yaqui (inaudible)?
17 OFFICER MONTANO: Yes.
18 MR. OSBURN: And, uh, go ahead. So what
19 happened after that?
20 OFFICER MONTANO: Uhm, at this point I was, uh, the
21 subject was, uh, pretty much out of control. Uh, she was, uh,
22 extremely intoxicated, uh, she was yelling, uh, resisting. Uh,
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1 finally we were able to put her in a patrol car and transport her
2 to the Detention Center. And due to another call and only two
3 officers on duty, I left her with, uh, Detention Officer, McKenna,
4 and I responded to the other call. Uh, when I completed that
5 second call I then drove back to Koni and I made contact with the
6 victims, uh, Bridget and [REDACTED].
7

8 MR. OSBURN: And do you see them here today?

9 OFFICER MONTANO: Yes.

10 MR. OSBURN: Please tell us where they're seated
11 here today?

12 OFFICER MONTANO: Uh, I'm not sure which one is
13 Bridget, Bridget is the, uh, wearing black and, uh, [REDACTED], uh,
14 red shirt.
15

16 MR. OSBURN: And the officer was pointing the
17 witnesses in the back of the courtroom. Uhm, so what, uh, when
18 you, uh, made contact the victims, uhm, what happens?

19 OFFICER MONTANO: Uh, prior, okay prior to making contact with
20 the victims I, uh, well let me get back to this. I went back to
21 the Detention Center and, uh, Detention Officer McKenna told me
22 that he located a, a knife on Beatrice's person. I took control
23 of that, uh, knife, then I went to Koni and I made contact with
24 the victims.
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1 MR. OSBURN: Okay. Uhm, and, uh, so you took
2 control of the knife, what did you with it?
3 OFFICER MONTANO: I placed it in the trunk of my
4 vehicle, secured it so that I could show it to the victims and see
5 if they could identify it.
6 MR. OSBURN: And were they able to do that?
7 OFFICER MONTANO: Yes.
8 MR. OSBURN: And what else happening then?
9 OFFICER MONTANO: Uh, I made contact with the
10 victims, they said that, uh, the female subject with the long blue
11 sleeved shirt, uh, was chasing them with the knife, pointed the
12 knife at them, uh, called her names, uh, something about I'm going
13 to kill you fucking bitches and, uh, uh, you're laughing at me and
14 something like that.
15 MR. OSBURN: When, did you in fact show the
16 knife to them?
17 OFFICER MONTANO: Yes. Yeah.
18 MR. OSBURN: And what happened? Did they
19 recognize it or?
20 OFFICER MONTANO: Yes. They immediately recognized
21 the knife as the weapon used.
22 MR. OSBURN: Your Honor, I'm showing him what's
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1 | labeled, uh, Tribe's Exhibit Two, the, uh, I believe it's a knife.

2 | Your Honor, may I approach?

3 | THE COURT: Uh-huh.

4 | MR. OSBURN: Officer, uh, what I'm handing you
5 | is labeled Tribe's Exhibit Two, a manila envelope with (inaudible)
6 | that's in evidence. Do you recognize that?
7 |

8 | OFFICER MONTANO: Yes.

9 | MR. OSBURN: What do you recognize that to be?

10 | OFFICER MONTANO: This is the, uh, evidence bag for
11 | the folding knife and a second item that was found on Beatrice's
12 | person.
13 |

14 | MR. OSBURN: How do you know that's what that
15 | is?

16 | OFFICER MONTANO: This is the, uh, I packaged this
17 | myself and I placed it inside the envelope myself.

18 | MR. OSBURN: And did you bring it to court here
19 | today?
20 |

21 | OFFICER MONTANO: Yes.

22 | MR. OSBURN: Has, uh, anyone had, uh, or has
23 | anyone, uh, had access to that, uh, aside from yourself at any
24 | time?

25 | OFFICER MONTANO: Uh, except for the evidence
26 |
27 |
28 |

1 technician and myself, no.

2 MR. OSBURN: Uh, I'm going to ask you now to
3 open the, uh, envelope. Now what do you, uh, find inside?

4 OFFICER MONTANO: The item one which the, uh, the
5 folding knife, and item two which is a, a baggie.

6 MR. OSBURN: Uhm, would you please, uh, now, uh,
7 describe, uh, item one as you see it??

8 OFFICER MONTANO: Item one is the, uh, silver color
9 folding knife with a, the red tip painted on.

10 MR. OSBURN: Is it, uh, is it, it in plastic?

11 OFFICER MONTANO: Yes it's, uh, inside a, uh,
12 evidence, another evidence bag, second evidence bag.

13 MR. OSBURN: Okay. So that's a, are you able to
14 see and tell that's what it is?

15 OFFICER MONTANO: Yes.

16 MR. OSBURN: And that's the one you had that
17 night?

18 OFFICER MONTANO: Yes.

19 MR. OSBURN: Is that the one that's found on,
20 uh, the Defendant?

21 OFFICER MONTANO: Yes.

22 MR. OSBURN: Your Honor, I'd ask to have Tribe's
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1 Exhibit Two entered into evidence.

2 THE COURT: Do you have any objection to that
3 Ms. Miranda? Tribe's Exhibit Two is entered into evidence.

4 MR. OSBURN: And, Officer, the other bag there
5 what is that?

6 OFFICER MONTANO: Uh, this is a baggie that was found
7 on her person and it's a baggie with, uh, uh, white residue in it,
8 unknown, uh, not enough to test.

9 MR. OSBURN: Well let me ask you this, uh,
10 there's nothing (inaudible). Uh, did you measure the knife?
11

12 OFFICER MONTANO: Uh, no I did not. I just
13 estimated.

14 MR. OSBURN: And what did you estimate?

15 OFFICER MONTANO: Uh, three to four inches in length,
16 the blade.

17 MR. OSBURN: Uhm, in your experience is that,
18 uh, uh, knife in fact a, possible to do, uh, deadly injury to
19 somebody?
20

21 OFFICER MONTANO: Yes.

22 MR. OSBURN: And what did you do then?

23 OFFICER MONTANO: Uhm, once they identified the
24 weapon, then I took the, uh, knife back to our patrol room and I
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1 placed it into evidence.
2 MR. OSBURN: Okay. Nothing further, Your Honor.
3 THE COURT: Ms., uh, Miranda do you have any
4 questions for Officer Montano?
5 MS. MIRANDA: No.
6 THE COURT: Okay. You may go. Any other
7 witness?
8 OFFICER MONTANO: Your Honor, at this time the Tribe,
9 uh, has already provided, uh, (inaudible) the officer and
10 (inaudible).
11 THE COURT: You haven't had (inaudible.)
12 MR. OSBURN: At this time we call Bridget
13 Valenzuela.
14 THE COURT: Ms. Valenzuela, please raise your
15 right hand. Do you solemnly swear to tell the truth and nothing
16 but the truth in this matter?
17 BRIDGET VALENZUELA: Yes.
18 THE COURT: Go ahead and be seated then.
19 MR. OSBURN: Please, uh, tell us, uh, what's
20 your name?
21 BRIDGET VALENZUELA: Bridget Valenzuela.
22 MR. OSBURN: And, uh, do you remember an
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1 incident happening, uh, January 25th, 2008?

2 BRIDGET VALENZUELA: Yes.

3 MR. OSBURN: Please tell us how you first, uh,
4 were aware that there was a problem?

5 BRIDGET VALENZUELA: Uhm, I was inside. I, I was inside
6 the house. I was like walking up and down the hall, 'cause I
7 didn't have nothing to do and my baby was sleeping. I kept
8 checking on her.
9

10 MR. OSBURN: Was this on Osay Bo-Oh?

11 BRIDGET VALENZUELA: It was on, uhm, Koni.

12 MR. OSBURN: Koni?

13 BRIDGET VALENZUELA: Yeah.

14 MR. OSBURN: And what happened?

15 BRIDGET VALENZUELA: Uhm, I heard my sister was like, I
16 heard something, somebody screaming and I was like what. I was, I
17 just thought. I walked to the front door and my, I heard my
18 sister banging on the, uhm, screen door 'cause it was locked. And
19 I was like what's wrong. And then she's all like there, there,
20 there's a lady running after me with a knife. And I was like well
21 then come inside. And then I walked outside and I, I met her
22 coming by for you know I walked outside. I see --
23

24 MR. OSBURN: Now, I'm sorry, what was your
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1 address?

2 BRIDGET VALENZUELA: Uhm, 5371 West Koni. Uhm, I see,
3 um, Beatrice outside of the front door and she's all like.

4 MR. OSBURN: When you say Beatrice do you mean
5 Beatrice Miranda?
6

7 BRIDGET VALENZUELA: Yes.

8 MR. OSBURN: Okay. The Defendant?

9 BRIDGET VALENZUELA: Yeah.

10 MR. OSBURN: Did you see her here today?

11 BRIDGET VALENZUELA: Yes.

12 MR. OSBURN: And where is she sitting?

13 BRIDGET VALENZUELA: On the left with the gray suit.

14 MR. OSBURN: So when did you see her the first
15 time?
16

17 BRIDGET VALENZUELA: Uhm, I seen her like, well holding
18 the knife and I was like what's wrong with you. And she's all
19 like, uhm, she's all like fucking bitches. She's all telling us
20 and I, we, I was like give me the phone I told her and, uhm, I
21 went outside, because my sister was out there. I was like get
22 inside and then, uhm, so--
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24 MR. OSBURN: Now when you saw the knife, when
25 she had it, were, were you afraid?
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1 BRIDGET VALENZUELA: Yeah.

2 MR. OSBURN: How did that make you --

3 BRIDGET VALENZUELA: Yeah. I was scared. I was like,
4 uhm, I picked the, I got the broom and I was like I'm going to hit
5 you with it if you, if you don't, uhm, if you don't leave. And
6 then she's all like go ahead. And then she started saying stuff
7 like in, in Yaqui. We don't know what she was saying. She was
8 just screaming out like all kinds of things. And then, uhm, my
9 little sister she, uhm, it looked like she was going to throw it
10 at us, so my sister got the, uhm, basketball. 'Cause the reason
11 why we through she was going to throw it at us, 'cause she was
12 all, she, she went like this with her neck and I was like [REDACTED].

13 MR. OSBURN: Now, I'm sorry. Just so that the
14 recording can, you did a gesture and that's, uh --

15 BRIDGET VALENZUELA: Uh-huh.

16 MR. OSBURN: -- but for the recording could you
17 describe what you saw her do with the knife?

18 BRIDGET VALENZUELA: Well she picked up her hand and
19 then it looked like, like if she was going to throw like, uh, well
20 her knife at us. So I was like [REDACTED] and so my little sister got
21 the basketball and she threw it at her.

22 MR. OSBURN: And when she was raising the knife
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1 was, how was it pointing?

2 BRIDGET VALENZUELA: It was pointed, she was point-, she
3 was, was doing it like this. And then, uhm, I was like.

4 MR. OSBURN: Like this, do you mean raising it
5 up?
6

7 BRIDGET VALENZUELA: Like holding it, like if she wanted
8 to throw it at us.

9 MR. OSBURN: Okay.

10 BRIDGET VALENZUELA: And then, uhm, I got scared so my
11 little sister was like Bridget, so she threw the knife at, well I
12 mean she threw the basketball and hit her face.

13 MR. OSBURN: Okay. We have to get this on
14 record. For the record you are raising just, just up close to
15 your shoulder, uh, and --
16

17 BRIDGET VALENZUELA: Yeah close to my shoulder.

18 MR. OSBURN: -- then in a stabbing --

19 BRIDGET VALENZUELA: Yes.

20 MR. OSBURN: -- fashion? Is that?

21 BRIDGET VALENZUELA: Yes. And, uhm, my, so my little
22 sister got scared and she, she threw the basketball at her.

23 MR. OSBURN: Who is your sister?

24 BRIDGET VALENZUELA: [REDACTED]
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1 MR. OSBURN: She was there with you at the time?
2 BRIDGET VALENZUELA: Yes.
3 MR. OSBURN: Uhm, and how old is she?
4 BRIDGET VALENZUELA: She's sixteen.
5 MR. OSBURN: Uhm, now, uh, she saw the knife
6 too...correct?
7
8 BRIDGET VALENZUELA: Yes.
9 MR. OSBURN: Uhm, and how did, she was afraid
10 then?
11 BRIDGET VALENZUELA: Uh-huh.
12 MR. OSBURN: What happened next?
13 BRIDGET VALENZUELA: Uhm, she, she had like backed off
14 and she was leaving already. She was towards like one of our
15 trees that we have in the front yard and, uhm --
16
17 MR. OSBURN: Who is leaving?
18 BRIDGET VALENZUELA: Miranda, or Beatrice Miranda.
19 Yeah. Uhm, and then she started saying again like stuff in Yaqui
20 and, uhm, she was going like across the street and then she was
21 all like you guys aren't funny. And she started saying and she
22 started like you fucking bitches, I'm going to kill you guys. And
23 then there was, uhm, there an --
24
25 MR. OSBURN: Was [REDACTED] still near you
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1 (inaudible).

2 BRIDGET VALENZUELA: No. [REDACTED] was standing beside me.

3 MR. OSBURN: So she was, she could hear?

4 BRIDGET VALENZUELA: Yes.

5 MR. OSBURN: Okay.

6 BRIDGET VALENZUELA: Uhm --

7 MR. OSBURN: How well could you hear that, those
8 words that she was saying?

9
10 BRIDGET VALENZUELA: We heard it well, because she was,
11 it was, it was like five, five feet away from us that she was
12 saying it.

13 MR. OSBURN: Did that make you afraid?

14
15 BRIDGET VALENZUELA: Yeah. So we were, we had like, we
16 were standing, we had the screen door open, but we were standing
17 right beside the screen door. So and, if she wanted to like run
18 up and do something we'd just go inside, but we were telling her
19 leave, leave. And I was, I wasn't, I wasn't, I was like I'm going
20 to call the cops. So I have the phone and I was talking to, uhm,
21 I don't know who I was talking to, one of the people that answered
22 the phone. And, uhm, she, we had a nei--, we had a, a neighbor of
23 ours went, somebody was leaving there and she ran up to her and I
24 was like, she has a knife. And then, uhm, that girl got in her
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1 car and she just, they just took off. They didn't even, I don't
2 know, I, they didn't even get to see her or whatever. They saw
3 her though so they're like, uhm, well I heard from that car.

4 MR. OSBURN: Let me just kind of go slowly, we
5 need to know who we're talking about.
6

7 BRIDGET VALENZUELA: Uh-huh.

8 MR. OSBURN: Uh, when, uh, she Beatrice ran
9 across the street.

10 BRIDGET VALENZUELA: Uh-huh.

11 MR. OSBURN: At any time, uh, were you chased by
12 Beatrice?

13 BRIDGET VALENZUELA: Yeah. When, uh, uhm --

14 MR. OSBURN: Tell me when you were running?

15 BRIDGET VALENZUELA: When it was happened was when I was
16 telling her to leave, when I walked outside. That's when like she
17 started like running and all that. [REDACTED], that's when I, that's
18 when I told her to move.
19

20 MR. OSBURN: When she ran, did she run toward
21 you or what?
22

23 BRIDGET VALENZUELA: Yeah. She run towards me.

24 MR. OSBURN: What did you do?

25 BRIDGET VALENZUELA: I just went inside. I got scared
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1 'cause she had a knife.

2 MR. OSBURN: Was, uh, uh, did, uh, [REDACTED] also
3 get chased inside?

4 BRIDGET VALENZUELA: Yeah.

5 MR. OSBURN: She was with you at that time when
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7 --

8 BRIDGET VALENZUELA: Yes.

9 MR. OSBURN: -- when Beatrice was running
10 towards you?

11 BRIDGET VALENZUELA: Uh-huh. Yes.

12 MR. OSBURN: How close, uh, were you at, uh, to
13 the knife? When the knife was closest to you when, when Beatrice,
14 when the knife is closest to you, how close was that?
15

16 BRIDGET VALENZUELA: She was really close. Like, like
17 two feet. Two feet away.

18 MR. OSBURN: Two feet?

19 BRIDGET VALENZUELA: 'Cause I remember I was like go,
20 leave I told her. And then that's when I was like, oh heck no I'm
21 going inside, she has a knife.
22

23 MR. OSBURN: And when she was, uh, yelling was
24 she, what, was she yelling at you?

25 BRIDGET VALENZUELA: Uh-huh.
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1 MR. OSBURN: And was she using, uh, offensive
2 language?

3 BRIDGET VALENZUELA: Yeah.

4 MR. OSBURN: And was --

5 BRIDGET VALENZUELA: She, all, all she was saying like
6 you fucking little bitches, and she just kept telling us that we
7 were laughing at her, but nobody was laughing at her.

8 MR. OSBURN: Okay. Then what happened, uh,
9 after, uh, she, uh, chased you inside the house?

10 BRIDGET VALENZUELA: She, she was acting like if she was
11 leaving. But when --

12 MR. OSBURN: And did she leave?

13 BRIDGET VALENZUELA: Uhm, after, when she heard me
14 already on the phone with the police. When I, the, when I saw her
15 leaving I was at, well I'm going to go back out there because I'm
16 going to describe her and to, uh, say. I was talking to them and
17 then like she comes back and I was like, uhm, you better leave
18 because I'm already calling the police. That's when she start--,
19 that's when she started running and she, and she took off.

20 MR. OSBURN: Did you get a description of her?

21 BRIDGET VALENZUELA: Uh-huh. Yes.

22 MR. OSBURN: And what was she wearing?

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1 BRIDGET VALENZUELA: She was wearing, uhm, blue jeans,
2 not, they were not dark. Uhm, she was wearing a long sleeve, a
3 long blue long sleeve with, uhm, white, like it was half white.

4 MR. OSBURN: Do you remember the sleeves?

5 BRIDGET VALENZUELA: Yes.

6 MR. OSBURN: What did the sleeves look like?

7 BRIDGET VALENZUELA: They were like, uhm, it was like a
8 sweater like, uhm, oh my God. Help. It was, I know it was like
9 knitted and, 'cause it had like lines in the sweater.

10 MR. OSBURN: Do you remember the color?

11 BRIDGET VALENZUELA: It was dark blue and white.

12 MR. OSBURN: Uhm, did you, uh, eventually see
13 that knife again at all?

14 BRIDGET VALENZUELA: Yes.

15 MR. OSBURN: And how did you see it again?

16 BRIDGET VALENZUELA: Uhm, the officer came back to our
17 house and he wanted us to describe the knife. And the one that
18 they had there, it was the one that she had.

19 MR. OSBURN: So you see, and when the officer
20 talked to you about is the one?

21 BRIDGET VALENZUELA: Yes. Because, uhm, I saw it good
22 in her hand, because I was like, I wanted to actually see if she

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1 did have a knife or anything else.

2 MR. OSBURN: Your Honor, I would ask you that
3 the, uh, uh, witness to view, uh, Tribe Exhibit Number Two.
4 Okay. Could you recognize that?

5 BRIDGET VALENZUELA: Yes.

6 MR. OSBURN: What is it?

7 BRIDGET VALENZUELA: It's, uhm, a folded knife with that
8 little red, like it, it's polish or something.

9 MR. OSBURN: Is that the knife that, uh,
10 Beatrice, uh, displayed and showed it to you?

11 BRIDGET VALENZUELA: Yes.

12 MR. OSBURN: You sure?

13 BRIDGET VALENZUELA: Yes.

14 MR. OSBURN: Uh, we ask to have (inaudible). Are
15 you --

16 BRIDGET VALENZUELA: Yeah, it is.

17 MR. OSBURN: No further questions.

18 THE COURT: Ms. Miranda, do you have any
19 questions for this witness? You may leave.

20 BRIDGET VALENZUELA: Uh-huh.

21 THE COURT: Any other witnesses?

22 MR. OSBURN: [REDACTED]

23

24

25

1 THE COURT: You are, you are dismissed. Will
2 you step forward and raise your right hand. And keep it on the
3 right?
4 MR. OSBURN: Yes, Your Honor.
5 THE COURT: Raise your right hand. Do you
6 solemnly--, [REDACTED], do you solemnly swear to tell the
7 truth and nothing but the truth at this time?
8 [REDACTED]: Yes.
9 THE COURT: Alright. Take a seat.
10 [REDACTED]: Hi.
11 MR. OSBURN: Please tell us your name?
12 [REDACTED]: [REDACTED].
13 MR. OSBURN: And, uh, do you know what was
14 happening January 25th --
15 [REDACTED]: Yeah.
16 MR. OSBURN: -- around 10:15? What do you
17 remember, how it first started?
18 [REDACTED]: Uhm, I was walking and like I was
19 on the phone.
20 MR. OSBURN: Where were you then?
21 [REDACTED]: Uhm, I was walking, but on Osay Bo-
22 Oh, or whatever that street is called.
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1 MR. OSBURN: Okay. Uhm, and where did you go
2 then?

3 [REDACTED]: I was walking home and I was
4 talking on the phone and I saw her like, I don't know she was at
5 our house like doing a --
6

7 MR. OSBURN: Who is her?

8 [REDACTED]: Uh, Miranda, or Beatrice Miranda.

9 MR. OSBURN: You mean the Defendant?

10 [REDACTED]: Yeah.

11 MR. OSBURN: Okay. Do you see her here?

12 [REDACTED]: Yeah. She right in --

13 MR. OSBURN: Where did you first see her?

14 [REDACTED]: I saw her at some house like on,
15 like on the corner, but like the second house. She was like
16 banging on the door, like throwing stuff around, I'm, I wasn't
17 sure what she was doing.
18

19 MR. OSBURN: Okay. Was that, uh, at 7520 Osay
20 Bo-Oh?
21

22 [REDACTED]: Yeah. I think it was. I think it
23 was.

24 MR. OSBURN: And what happened then?

25 [REDACTED]: And then like she was walking and
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1 then like she was like already like behind me, like walking. And
2 then heard me talking on the phone and I was laughing. And then
3 she's all, she's all why you laughing at me. And I was all, I
4 just like looked back and I'm like okay whatever. And then I
5 started walking and then she's all you're laughing at me. And I
6 was all, and then I, I, because the court, there's like a court
7 right there and I, I jumped up like to touch the, the net, and
8 then, uhm, she just starts running after me. And then --

10 MR. OSBURN: Now was that on Koni?
11 [REDACTED]: Yeah. She's, she starts running
12 after me and then I run to the door. And then I start banging on
13 it. And, uhm, my sister, Bridget comes out. And then she's all
14 what's wrong. And then I was all, she's all, she's all running
15 after me with the knife, I told her a knife and she's all what.
16 And then she, we were out there and then she's all like well
17 you're laughing at me. I was all I wasn't even laughing at you,
18 I'm on the phone. And then, uhm, and then she's all, she said,
19 like she was talking like a lot of stuff and then, and then like.
20

21
22 MR. OSBURN: Let me ask you this. Did this
23 happen as you were going along Koni?

24 [REDACTED]: What.

25 MR. OSBURN: Like just as you were traveling
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1 along Koni did this happen?
2 [REDACTED]: Yeah.
3 MR. OSBURN: And you weren't like standing in
4 one spot, you were moving along and just walking?
5 [REDACTED]: Yeah. I was walking down the
6 street.
7 MR. OSBURN: (Inaudible.)
8 [REDACTED]: Oh, and then she was like talking
9 stuff, it was like bitches and like, uh, all that stuff and then
10 that's when like my sister was all you need to leave and stuff.
11 And then --
12 MR. OSBURN: Who is your sister?
13 [REDACTED]: Bridget.
14 MR. OSBURN: Bridget, what's her last name?
15 [REDACTED]: Valenzuela. And then she's all,
16 and then that's when like she, when she got the knife and she, she
17 --
18 MR. OSBURN: She being?
19 [REDACTED]: Uh, Beatrice.
20 MR. OSBURN: Beatrice. If you try, try to use
21 the actual name of the person just so we have a clear record.
22 [REDACTED]: Okay.
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1 MR. OSBURN: If you can.
2 [REDACTED]: Okay.
3 MR. OSBURN: I'd sure appreciate it.
4 [REDACTED]: Yeah.
5 MR. OSBURN: Go ahead, what did Bridget do?
6 [REDACTED]: And Bea--, Beatrice got the knife
7 and then she like re--, reached back and then I, that's when I got
8 the basketball and I threw it at her. And I ran inside 'cause
9 like it looked like she was going to throw the knife.
10
11 MR. OSBURN: Okay.
12 [REDACTED]: But, I don't think she got it, I
13 think she wasn't able to throw the knife, because that's when I
14 had threw the basketball at her.
15
16 MR. OSBURN: Were you afraid?
17 [REDACTED]: Yes.
18 MR. OSBURN: Uhm, and, uh, was your sister
19 beside you?
20 [REDACTED]: Yeah.
21 MR. OSBURN: Uhm, what happened then? Did you
22 go in the house?
23 [REDACTED]: Yeah.
24 MR. OSBURN: Uhm, what happens after that?
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1 [REDACTED]: And then that's when she's all give
2 me the phone and then I, we, she got the phone and then she,
3 somebody called and she answered it, and then like she hung up.
4 And then she's all I'm going to call the police. And then she had
5 like walked, uh, Beatrice had walked away, like not even that far
6 from the house. And then she was like laughing and like you guys
7 are laughing at me. And then Bridget's all I'm going to call, I'm
8 cal--, I'm calling the police. And then she was on the phone.
9 And then she started laughing and then that's when, uhm, this one
10 lady from across the street came out and she went over there.
11

12 MR. OSBURN: Let me ask you this. Did you, uhm,
13 at that, what did Beatrice do at that point?
14

15 [REDACTED]: When.

16 MR. OSBURN: After you went in the house and
17 called the police?

18 [REDACTED]: She was right there standing by the
19 door and she was like talk --

20 MR. OSBURN: She just stayed there?

21 [REDACTED]: Yeah. She, and then she started
22 walking away.

23 MR. OSBURN: Uhm, did you at some point make
24 contact with the police? He was at the house.
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1 [REDACTED]: No, I didn't.
2 MR. OSBURN: You never saw the police?
3 [REDACTED]: Like, uh.
4 MR. OSBURN: At any time?
5 [REDACTED]: At any time did I see the police?
6 MR. OSBURN: Yes.
7 [REDACTED]: Well yeah when they came.
8 MR. OSBURN: Okay. When they came?
9 [REDACTED]: Uh-huh.
10 MR. OSBURN: Did you, uh, were you able to look
11 at a knife?
12 [REDACTED]: Yeah.
13 MR. OSBURN: Okay. Were you able to recognize
14 that?
15 [REDACTED]: Yeah.
16 MR. OSBURN: Did you say yes?
17 [REDACTED]: Yeah. Yes.
18 MR. OSBURN: Did you, and, and how were you able
19 to recognize that knife?
20 [REDACTED]: Uhm, the off--, the police officer
21 came and then he opened his trunk and he's all, if, do you guys
22 recognize the knife. And we're like yeah that's the knife that
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1 she had. The --
2 MR. OSBURN: How can you be sure?
3 [REDACTED]: Because we saw it when she was
4 going to throw it at us.
5 MR. OSBURN: Got a good clear look at it?
6 [REDACTED]: Yeah.
7 MR. OSBURN: Your Honor, I would ask, uh, the
8 here to examine Tribe's Exhibit Number Two. The Baliff is showing
9 you, uh, what's marked as Tribe's Exhibit Two. Do you recognize
10 it?
11 [REDACTED]: Yeah.
12 MR. OSBURN: What is it?
13 [REDACTED]: Uh, knife, with like some pink or
14 red stuff on it. I don't know.
15 MR. OSBURN: Do you recognize that knife in
16 particular as a particular knife?
17 [REDACTED]: Yeah. I remember it.
18 MR. OSBURN: Where do you remember it from? Is
19 that the knife you saw?
20 [REDACTED]: Yeah.
21 MR. OSBURN: Okay. How can you be sure?
22 [REDACTED]: Because I remember seeing it when
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1 she was going to throw it at us, and when he took it to the house
2 to show us.

3 MR. OSBURN: Is there anything distinct on the
4 knife that stands out? Do you remember that knife?

5 [REDACTED]: Uh-huh.

6 MR. OSBURN: You're clear on that?

7 [REDACTED]: Yeah.

8 MR. OSBURN: You did very well. Uh, at some
9 point did, uh, uh, Beatrice, uh, threaten you?

10 [REDACTED]: When she was, when she was like,
11 uhm, walking away she all I'm going to kill you. And like saying
12 all that stuff.

13 MR. OSBURN: Were you afraid?

14 [REDACTED]: Yeah.

15 MR. OSBURN: Were you afraid for your sister as
16 well?

17 [REDACTED]: Yeah.

18 MR. OSBURN: This all happened on, on the Pascua
19 Yaqui Indian?

20 [REDACTED]: Yes.

21 MR. OSBURN: We have no further questions.

22 THE COURT: Okay. Uhm, Miranda, do you have
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1 any questions for [REDACTED]
2 MS. MIRANDA: (Inaudible.)
3 THE COURT: Thank you. Any other witnesses?
4 MR. OSBURN: The Tribe rests.
5 THE COURT: Ms. Miranda, do you have any
6 witnesses that you wish to call at this time? Do you wish to
7 testify?
8 MS. MIRANDA: (Inaudible.)
9 THE COURT: And The Court will also inform you
10 that your refusal to testify is highly (inaudible) on The Court
11 by, uh, (inaudible). Do you have any evidence that you wish to
12 present at this time. And we will have closing from the Tribe
13 first and then from the Defendant, if the Defendant has one. The
14 closing, Ms. Miranda, with, uh, Tribe will be giving the closing
15 and testify they feel I should find you guilty of the charges. If
16 you wish to make a closing statement we will afford, uh,
17 (inaudible) or give visit to The Court of why you feel that, that,
18 uh, I should find you innocent of the charges...okay? Is the
19 Tribe ready?
20 MR. OSBURN: Your Honor, the, uh, evidence is,
21 uh, clear by not one, but by two witnesses, and also, uh,
22 confirmed by the officer's involvement. Uhm, we did have a
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1 aggravated assault, uh, that, uh, [REDACTED] did in fact
2 believe that she was in, in danger of receiving battery, uhm, and
3 that knife, uh, was in fact displayed to her. Uh, that's true for
4 both [REDACTED] uh, [REDACTED] and also Bridget Valenzuela. And Your
5 Honor, we, uh, also have, uh, the fact that she, or the incident
6 took place along Koni, uh, along the fifty three hundred block of
7 Koni and that, uh, she was in fact in danger, her life was
8 threatened. Uh, there could easily have been, uh, uh, uh, injury,
9 uh, substantial, uh, or even, uh, uh, ha--, a death involved with
10 this kind of behavior. Uh, Ms. Valenzuela indicates Ms. Miranda
11 was fairly, uh, out of control and, uh, uh, this exa--,
12 exacerbated her behavior from that to, uh, to, uh, actually
13 threatening them, uh, I'm going to kill you guys. There was no
14 question as to what kind of mindset she had. She, she had, uh,
15 advised them well I am going kill you, she's without (inaudible)
16 at the time her force was, was, uh, certainly aggressive behavior
17 in, uh, (inaudible) allowed, allowed the offensive behavior and,
18 uh, display include, uh, the record. Now the, uh, weapon is
19 clearly identified at the time, uh, the officer went to them,
20 showed it to them, they made, uh, clear identification, uh, and
21 then, uh, today again in court there is another identification
22 that that is in fact the knife. Uh, so Your Honor, we have, uh,
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1 severely egregious behavior. There is, uh, for, uh, but for a, a
2 chance that there was no injury involved in this, uh, the injury
3 could've been severe to either one of your victims, or, uh, in
4 fact to the Defendant herself. I think her behavior she could've
5 easily injured herself in this. So, Your Honor, we have a very
6 dangerous, uh, situation that was, uh, uh, fortunately there was
7 no actual injury in this, but that does not change the fact that
8 she is in fact guilty of the aggravated assault, both aggravated
9 assault with both victims, uh, endangerment, uh, to both of the
10 victims. Uh, Your Honor, the threatening again occurred with both
11 of the victims and here certainly she was disorderly as indicated
12 throughout this. Your Honor, the evidence is clear, and Ms.
13 Miranda should in fact be found guilty.
14
15

16 THE COURT: Ms. Miranda, do you have a closing
17 statement that you wish to make?

18 MS. MIRANDA: (Inaudible.)

19 THE COURT: At this time having heard the
20 testimony and with the evidence, The Court finds that the Tribe
21 has proven beyond a reasonable doubt that the Defendant is
22 (inaudible) of count one, aggravated assault; count two,
23 aggravated assault; count three, endangerment; count four,
24 endangerment; count five, threatening and intimidating; count six,
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1 threatening and intimidating; count seven, disorderly conduct;
2 and, count eight, disorderly conduct. Evidence clearly showed
3 that you intimidated, uh, I believe you did have a weapon in your
4 (inaudible) person, and that you threatened the, uh, threatened
5 to, uhm, that you, uh, be acting in that manner, uh, that. Uh, we
6 find with the Tribe and find you guilty of all charges. Ms.
7 Miranda, is there any reason for the (inaudible) sentence to be?
8

9 MS. MIRANDA: No.

10 THE COURT: (Inaudible.)

11 MR. OSBURN: Your Honor, I, uh, spoke to the
12 victims and, uh, we'd like to ask to have a separate sentencing
13 given to, uh (inaudible).
14

15 THE COURT: The Tribe is not ready to proceed
16 to sentencing (inaudible) testimony.

17 MR. OSBURN: Uh, Your Honor, I understand, but
18 we, uh, we ask to have the (inaudible) for sentencing, and we also
19 ask The Court for a pre-sentence review in this very serious
20 matter and I'm going to, uh, talk to Probation, uh, provided The
21 Court, uh, this is not a trivial matter (inaudible). Certainly if
22 Probation is involved in this, then we actually have knowledge of
23 that point.
24

25 THE COURT: Are they didn't hear from this, uh,
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1 (inaudible).
2 MR. OSBURN: Uh, we asked them (inaudible).
3 THE COURT: (Inaudible.)
4 MR. OSBURN: Uh, certainly that they have, uh,
5 no contact. I believe the bond was, uh, two thousand dollars, if
6 I'm not mistaken, we ask that to be, remain in effect. Uh, and,
7 uh, certainly, uh, have no reference, uh, or contact with them
8 (inaudible). Uh, and I believe that's all, Your Honor.
9
10 THE COURT: Okay. How about, uh, a time for
11 sentencing.
12 CLERK: May 19th at 10:30.
13 THE COURT: Okay. Sentencing is scheduled for
14 May 19th, 2008, at 10:30 a.m. And --
15
16 MR. OSBURN: Your Honor, pre-sentence
17 (inaudible).
18 THE COURT: Okay.
19 MR. OSBURN: And we also ask for pre-sentence
20 (inaudible).
21
22 THE COURT: And it (inaudible). Bond is set at
23 fifteen hundred dollars (inaudible). (Inaudible.) And the
24 Defendant will appear on May 19th, 2008, at 10:30 for the
25 sentencing hearing. (Inaudible.)
26
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28

1 MR. OSBURN: Your Honor, is there a (inaudible).

2 THE COURT: (Inaudible.) Ms. Miranda, do you
3 have any questions? No. You got anything further. Court's
4 adjourned.

5 BALIFF: All rise.

6 [END OF BENCH TRIAL]

7 [Transcriber's Certification Follows:]
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CERTIFICATE

I certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: August 19, 2008

CHRISTINE McGARVEY-LAW
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CHRISTINE McGARVEY

1
2
3 IN THE PASCUA YAQUI TRIBAL COURT
4 COUNTY OF PIMA, STATE OF ARIZONA
5

6 PASCUA YAQUI TRIBE,) NO. CR-08-119
7)
8 Plaintiff,)
9 vs.)
10 BEATRICE MIRANDA,)
11)
12 Defendant.) May 19, 2008
13) Tucson, Arizona

14 BEFORE: THE HONORABLE CORNELIA CRUZ, JUDGE OF
15 THE PASCUA YAQUI TRIBE

16 APPEARANCES: G. ALLEN OSBURN, ESQ.
17 appearing for Plaintiff

18 BEATRICE MIRANDA,
19 appearing Pro Per

20
21 RE: SENTENCING
22

23
24 Christine McGarvey
25 Legal Transcription Services Plus, Inc.
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INDEX

WITNESS

Gary A. Chavez, Witness

CLERK: Please be seated. The Honorable
Cornelia Cruz presides.

THE COURT: And the Pascua Yaqui Tribal Court
is now in session in the matter of the Pascua Yaqui Tribe versus
Beatrice Miranda, docket number CR-07-064 and CR-08-119. Today's
date is May 19th, 2008. Chief Probation Officer Gary Chavez from
the Probation Department, Allen Osburn for the Tribe, Defendant
appears without legal counsel and in custody. This is the
arraignment hearing on the motion to revoke probation in CR-07-064
and sentencing hearing in CR-08-119. And Ms. Miranda, I will
advise you of your rights, rights will apply to both matters. You
have the right to remain silent. Anything you say may be used
against you. You have the right to legal counsel at your own
expense. You have the right to a hearing. You have the right to
cross examine witnesses and evidence presented by the Tribe, and
the right to present witnesses and evidence in your behalf. You
have the right to know the charges and allegations against you,
and in the sentencing matter, you have the right to appeal to the

1 Pascua Yaqui Court of Appeals. And the consequences, uh, in the
2 revocation matter may include you being found in violation of your
3 conditions of probation, your probation term being revoked or
4 extended, and any suspended days being imposed. Do you understand
5 your rights?
6

7 MS. MIRANDA: Yes.

8 THE COURT: And we will first proceed with the
9 sentencing hearing, uh, CR-08-119. And in that matter the pre-
10 sentence investigation report has been filed by The Court, or with
11 The Court rather by the Probation Officer. And did you receive a
12 copy of that, Ms. Miranda?
13

14 MS. MIRANDA: Yes.

15 THE COURT: And go ahead and present these
16 recommendations.

17 MR. CHAVEZ: Your Honor, after conducting pre-
18 sentencing investigational report, uhm, I've had several contacts
19 with the, uh, victims in this matter. Uh, some of what the
20 victims had stated, uh, was disclosed in the sentencing, I'm
21 sorry, in the victim's statement of the pre-sentence
22 investigational report. After considering this, uh, pre-sentence
23 investigation in this case it was recommended the following:
24 Count One, Aggravated Assault, three-hundred and sixty-five days
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1 in detention to be served immediately; Count Two, Aggravated
2 Assault, three-hundred and sixty-five days of detention to be
3 served immediately; Count Three, Endangerment, sixty days to be
4 served immediately; Count Four, Endangerment, sixty days of
5 detention to be served immediately; Count Five, Threatening or
6 Intimidating, ninety days of detention to be served immediately;
7 Count Six, Threatening or Intimidating, ninety days of detention
8 to be served immediately; Count Seven, Disorderly Conduct, thirty
9 days of detention to be served immediately; Count Eight,
10 Disorderly Conduct, thirty days of detention to be served
11 immediately. Counts One and Two, we request to be served
12 immediately for a total of seven-hundred and thirty days in
13 detention; Counts Five and Six, request to be served immediately
14 consecutive with Count One and Two, for a total of one-hundred and
15 eighty days in detention; Count Three, Four and Seven, and Eight,
16 request to be served concurrently with Counts One, Two, Five and
17 Six, for a total of nine-hundred and ten, nine-hundred and ten
18 days in detention. Those are the recommendations, Your Honor.

21 THE COURT: Is there anything from the Tribe?

22 MR. OSBURN: We concur with that, Your Honor.

23 This was a very serious matter and, uh, fortunately, well it
24 could've gone much worse than it did.
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1 THE COURT: Alright. Ms., uh, Miranda, do you
2 have anything to say in regards to the recommendations for
3 sentencing?
4 MS. MIRANDA: No. Can it be lesser? You
5 know. Or can they all run concurrent?
6 THE COURT: Any response?
7 MR. OSBURN: Uh, Your Honor, uh, believe that,
8 uh, uh, we are actually having some of these, uh, counts be
9 concurrent, uh, and, uh, so we actually have been, uh, rather
10 generous in that regard. Uhm, and, uh, as far as having it be
11 lesser, we've had no, uh, reason or, uh, uh, explanation of why it
12 should be lesser than that. So, Your Honor, we believe that, uh,
13 again this, uh, someone could've been injured or killed, uh, and,
14 uh, certainly the affects, uh, may in fact, uh, well will be
15 lasting, uh, upon the, uh, the memories of these victims, uh, Your
16 Honor. So I, uh, our, uh, assessment we believe is rather, rather
17 generous. Uh, again, someone could've been killed in this
18 situation.
19 MR. CHAVEZ: Your Honor, and speaking with the
20 victims, uh, some of their concerns were, were, you know why this
21 had taken place. Uh, and what's going to happen from this point
22 on out. Uhm, they did feel for their lives. Uh, also one of the
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1 | things that they had shared with me was, uhm, is this going to
2 | happen again. Apparently the, both residents are not far from
3 | each other. Uh, and then also looking at her history, uhm, there
4 | is a responsibility to uphold the safety of this community. And
5 | looking at the criminal history, there has (sic) been several
6 | victims, uhm, who have been related to the Defendant, and who have
7 | not been related to the Defendant. Therefore, taking all of that
8 | into consideration among other things, uh, her failure to comply
9 | with several probation matters, her failure to, uh, appear before
10 | this court, uh, and also in working with this Defendant for the
11 | past several years, uh, her responsibilities toward the Probation
12 | Department, she has failed to comply with some of the conditions.
13 | Uh, she has failed to comply with the, some of the requests by the
14 | Probation Officers to, to make sure that, uh, she complied with
15 | court orders. And therefore, uhm, each and every time that she
16 | comes before this court, uh, she seems to be making promises, not
17 | only to The Court, but to the Probation Officers, and, uh, she has
18 | failed to comply with those.

19 |
20 |
21 | THE COURT: Alright. At --

22 |
23 | MR. OSBURN: Your Honor, I, I'm sorry. If I
24 | may. Just, uh, with having addressed the, uh, basic sentencing we
25 | also would, uh, simply ask for a, uh, no contact with the victims
26 |
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28 |

1 and to not possess any weapons for a period of eight years, one
2 year for each count.

3 THE COURT: Uhm, Ms. Miranda, do you have
4 anything to say in regards to the added recommendation of no
5 weapons and restraining order?
6

7 MS. MIRANDA: No.

8 THE COURT: Eight years?

9 MR. OSBURN: Yes, Your Honor. One year for each
10 count.

11 THE COURT: Any, do you have anything to say,
12 uh, in regarding to the Tribe's recommendations?
13

14 MR. CHAVEZ: No, your--, no, Your Honor.

15 THE COURT: At this time the Court will enforce
16 sentence as follows, after hearing from the probation officer and
17 the Tribe regarding the history of the Defendant. And the Court
18 does find that the Defendant does have a history of failures to
19 comply, failures to appear, uhm, and failure to comply with
20 conditions of probation and other orders set by the Court. The
21 Court will set sentencing as follow: Count One, three-hundred and
22 sixty-five days in jail; Count Two, three-hundred and sixty five
23 days in jail; Count Three, Endangerment, Count Four, uh, sixty
24 days in jail; Count Four, sixty days in jail; Count five, ninety
25 days in jail; Count Four, sixty days in jail; Count five, ninety
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1 days in jail; Count Six, ninety days in jail; Count Seven, Seven,
2 I'm sorry, thirty days in jail; Count Eight, thirty days in jail.
3 Counts One and Two are to be served immediately for a total of
4 seven-hundred and thirty days in jail; Counts Five and Six will be
5 served consecutive to Counts One and Two for a total of one-
6 hundred and eighty days; Sentencing, Counts Three, Four, Seven and
7 Eight are concurrent with One, Two, Five and Six for a total of
8 nine-hundred and ten days in jail. The Defendant is restrained
9 for a period of two years from the victims, and Defendant will not
10 possess any type of weapons for a period of two years. And that
11 is the sentence of the court. And Ms. Miranda, do you have any
12 questions on this matter?
13
14

15 MS. MIRANDA: No.

16 THE COURT: No? The Court is adjourned on this
17 matter. We will proceed to CR-07-064. And in that matter I will
18 read the, uhm, motion to revoke probation and I will ask what plea
19 you wish to enter? Comes now Gary A. Chavez, to refer --
20

21 MR. OSBURN: Your Honor, if I may. I believe
22 we're at disposition on that.

23 THE COURT: Are we? Oh I'm sorry, we are at
24 disposition. And you have been advised of your rights and I will
25 hear disposition recommendations from the Probation Officer and
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28

1 the Tribe.

2 MR. CHAVEZ: Your Honor, dis--, we recommend the
3 disposition be disposition as follows. Uh, for special probation
4 condition number eleven, we ask that the, uhm, original suspended
5 sentence of thirty days in detention be opposed, I'm sorry, be
6 imposed immediately. Uh, we ask that she serve that thirty days
7 immediately, Your Honor.
8

9 THE COURT: Concurrent?

10 MR. CHAVEZ: Yes, Your Honor.

11 MR. OSBURN: Tribe, Tribe concurs.

12 THE COURT: Do you have any objects to the
13 recommended disposition?
14

15 MR. CHAVEZ: Nine hundred and ten days.

16 MR. OSBURN: Okay.

17 THE COURT: You are found in violation of your
18 conditions of probation, your probation term is hereby revoked and
19 the thirty suspended days are imposed. You will serve those
20 immediately concurrent to the sentence imposed in your other
21 matter. Do you have any questions?
22

23 MS. MIRANDA: Uhm, the days I already served
24 does that count?

25 THE COURT: Uh, they're not, I haven't heard
26
27
28

1 | them, uh, recommend any credit for time served. Any response?
2 |
3 | MR. OSBURN: Is that a request, Your Honor?
4 |
5 | MS. MIRANDA: Yes.
6 |
7 | THE COURT: It, it, are you requesting credit
8 | for time served?
9 |
10 | MS. MIRANDA: Yes.
11 |
12 | MR. OSBURN: (Inaudible - whispering.) Uh, Your
13 | Honor, we, uh, we have no objection to that. Our understanding is
14 | there should be one hundred and fourteen days credit time served.
15 |
16 | THE COURT: Okay.
17 |
18 | MR. OSBURN: Uh, that she's already served.
19 |
20 | THE COURT: Okay. You will be given credit of
21 | time served of a hundred and fourteen days that will be discounted
22 | from your, uh, seven hundred and ninety days.
23 |
24 | MR. OSBURN: Ninety one?
25 |
26 | THE COURT: Do you have any questions?
27 |
28 | MS. MIRANDA: No.
THE COURT: Is there anything for the?
MR. CHAVEZ: No, Your Honor.
MR. OSBURN: No, Your Honor.
THE COURT: Court is adjourned.

1 CLERK: All rise.
2
3 [END OF SENTENCING]
4 [Transcriber's Certification Follows:]
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CERTIFICATE

I certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: August 19, 2008

**CHRISTINE McGARVEY-LAW
INVESTIGATIVE SUPPORT SERVICES, LLP
PARALEGAL SUPPORT SERVICES, LLP
LEGAL TRANSCRIPTION SERVICES PLUS, INC.
TRANSCRIBED BY: JAN LINDENBERG**

SIGNED BY: CHRISTINE McGARVEY

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